

AmeriCorps Rulemaking Session

Conference Call
August 19, 2004
12:00 p.m. CDT

Coordinator: Good afternoon and thank you for standing by. At this time, all participants are in a listen-only mode. Throughout the presentation, we will conduct a question and answer session. This conference is being recorded. If you have any objection, you may disconnect at this time.

Now, I will turn the call over to Mr. David Eisner. Sir, you may begin.

D. Eisner: Thanks to everyone for joining. We're very excited to finally be speaking again with our field and our customers about the rules, taken a lot of time to get here.

Here, on this call, we've got Rosie Mauk, a Director of AmeriCorps and Frank Trinity, our General Counsel, and some of the other staff who have been part of the rulemaking team. I understand we've got about 45 people online.

What we're going to try to do today, and it may be a little bit tricky, is we'd like to offer clarity for the proposed rule. We'd like to answer questions that you may have about what the rule is supposed to do or what elements of the rule are.

This call is not designed as a call for us to receive input. I'm going to try hard to stick to that. We're going to have a lot of opportunities for input. I think we've published when we're going to do an input conference call, and we've published five public meetings, as well as anyone has an opportunity to send us e-mail or letters or faxes with input.

We thought that all of that input would benefit from folks being clear, so we wanted to provide an opportunity, as soon as possible, to do what we can to provide clarity, and I can't say that someone in this room is going to be able to answer any question. It's very possible that some of the questions will end up pointing out issues that require more clarity as we get to the final rule, which is one of the reasons that we're creating a full transcript of this call. The call will be part of the final docket.

Again, I want to apologize in advance for when I begin to feel like what we're receiving is input. At that point I'm going to interrupt, note that there are other opportunities for doing input, and that what we're really trying to use this call for is to clarify any questions that folks may have about the rule that we issued seven days ago.

Now, before getting to those questions, I just wanted to touch on a few key points about the rule. What we are trying to do here is position AmeriCorps for growth. We think that we did that through increasing the leverage of federal dollars and making more resources available for more programs. We think we did that through resolving long-standing issues that have traditionally stood in the way of more unanimous support for the program. We think we've done that by coming up with solutions that build flexibility for the programs and for the commissions. We think we've done that by making the competitive process stronger, by identifying criteria that we think is more connected to program success.

We think that we've done that most importantly by building predictability and reliability of our program in the field, so that our program is not consistently undermined by our grantees having a sense that our guidance is unreliable. Or that the outcomes of guidelines for next year will somehow be different from what they wanted them to be. We think that we've also reduced burdens, which ends up increasing the strength of the field.

All that being said, we're confident that as much as what we did was informed by earlier input, that we can make this even stronger. So we really are looking forward to as much input as we can get on what we did right, what we did wrong and where we could make technical or substantive fixes to get this even more positioned for future AmeriCorps growth.

Field input is vital. And let me finally note that, again, that that's not what this call is for, and we're going to try to focus on clarification. Specifically to tell us how we are going to go about getting field input, Rosie Mauk, Director of AmeriCorps, do you want to walk us through that?

R. Mauk Sure. Thanks to everybody on the phone. We really are excited here at the Corporation and especially within the AmeriCorps department. Our program officers have been meeting with David and I almost everyday since the rules went public making sure that everybody's up to speed. We hope for those of you that have program officers that you'll rely on those folks to help you through this phase that we're in. We really do appreciate the excellent ideas and suggestions that came in, in our initial comment period. I hope that you note that we have tried to incorporate many of those into the rules.

Now, we are in the sixty-day comment period, as David said, day seven of the sixty days. To ensure that your comments are considered, they must reach the corporation on or before October 12, 2004 in order to make sure that we will be able to review those and have those parts of the final rule.

As you make your comments, we urge you to identify clearly the specific section or sections of the proposed rule that each comment addresses and to arrange your comments in the same order as the proposed rule. That would just be really great if you all could do that. There are three ways to submit your comments. One is the public meetings that David referred to. We hope that you've seen them on our Web site, where we're going to be. We will be, Wednesday, September 22nd in Philadelphia, Thursday, September 23rd in Atlanta, Monday, September 27th in Portland, Oregon, Tuesday, September 28th in Denver, Colorado, and Friday, October 1st in Chicago. Those public meetings will take place from 9:30 to noon in each one of those places. You can also register, and we would like you to register to attend the meetings online. Again, you just go to our www.americorps.org for all this information.

Also, two conference calls will be coming up that will be part of input, not just clarification like today's is. That will be Friday, September 10th from 1:00 to 3:00, and Thursday, October 7th, from 1:00 to 3:00. Of course, written comments are the best way that you can make sure that we hear you. That will be via e-mail, fax, or you can actually drop off your comments here at the corporation. Again, all that information on our Web site. The e-mail address is proposedrule@cns.gov.

At the conclusion of our comment period, the corporation will consider the public input, publish a final rule in the Federal Register, together with a summary of and responses to the comments received during the comment period. The final rule will take effect no sooner than 30 days after its publication in the Federal Register. Back to David.

D. Eisner: That was pretty quick. Let's get to questions. We thought that the best way to organize the call is to divide up questions by the major topics in the rule. What we're going to do is start each topic by answering questions that came in through e-mail, which we have here. We'll read the questions that we received through e-mail, and then taking in additional questions over the phone.

Let me list, first, the topics in the order that we're going to address them. First, we want to address any questions that folks have on the process of the rulemaking and on the input. Then, we're going to talk about sustainability. Third, we're going to talk about grant selection criteria. Fourth, we're going to talk about cost per FTE. Fifth, we're going to talk about member service activities, the activities that AmeriCorps members can do. Sixth, we're going to talk about tutoring requirements. Seventh, we'll go through a state commission flexibility to operate national service programs. Our final subject will be performance measures and evaluation. Then, we'll open it up to any other questions that may be out there.

What I'm going to do, as we get to each topic, is ask folks to hit star one, only if they have questions in that topic, so that we can get a sense for how we're going to go.

Let's get going. Operator, are you with us?

Coordinator: Yes, sir.

D. Eisner: At this time, can folks hit star one.

Coordinator: If they would like to make a statement or ask a question, press star one.

D. Eisner: On process.

Coordinator: There is no questions.

D. Eisner: Great. We got nothing on e-mail on that too. Obviously, that means we're being excruciatingly clear.

I imagine there's no questions on sustainability either. Actually, if you have questions on sustainability, will you press star one?

Coordinator: We do have one. Alison Carpenter-

D. Eisner: You know what I'm going to do is I'm first going to go through the one that I got through e-mail.

Coordinator: Okay. When you're ready let me know.

D. Eisner The question was, "I don't understand the use of the word 'aggregate.'" We've had a few questions around trying to understand this.

What we're saying about aggregate is that programs will continue to be required to meet their 15% match on the member costs and 33% match on program costs. Generally, those two aggregate somewhere between 20 and 25% of overall costs. What we're saying is that in year four, we need that aggregate number to be at twenty six percent and year five at thirty percent and so forth.

It's up to programs whether they choose to do that by matching member living costs or program costs. During the initial comment period, we heard that some programs find it easier to match one and some programs find it easier to match the other, so we're making the aggregate cost, members can match either, up to and getting, by year ten to fifty percent.

The second question is, "Can you provide clarity on the grandfather clause? It sounds like even if we have had an AmeriCorps grant for longer than three years, we will start at year three on the match schedule. Is that right?"

The answer is yes. That is correct. What we're saying is that if your program is in year eight, we think that we have a fairness issue not to force you into year eight in the first year of the rule. Rather, if your program is in year eight, you will start in year three the first year the rule is applicable.

The next question, "Under the proposed rules, will state commissions still be able to time limit programs?"

The answer is yes. We have worked hard to try to make our proposal not inconsistent with what the states will do. To the extent that states have more aggressive or different requirements, those are the requirements the programs will need to deal with, so long as they also meet or exceed the new regulation.

With that, those are the ones we got by e-mail. Operator, you can take questions now on this.

Coordinator: Certainly. We do have one. Miss Alison Carpenter, your line is now open.

A. Carpenter: I've got two questions for you. I'll try to make them quick. Let's see, first was around a legal applicant and where a new operating site with a legal applicant that had already been receiving funds would fall. Would it be considered starting at year three on the match schedule, or would it be considered at year one? Is there a distinction there, or is that something you would want to think about?

D. Eisner: I'm trying to understand the question. If your question is that there is a long history grantee then has a new operating site-

A. Carpenter: Exactly.

D. Eisner: That operating site would be pegged to the age of the parent organization.

A. Carpenter: So let's say three years from now a new operating site for us is a long-term grantee, would start in at year three on the scale.

D. Eisner: No. It would start at whatever year, the year three thing is only for this immediate implementation. Once we're out of the immediate implementation, a new operating site would start wherever the parent organization is.

A. Carpenter: My second question was related to the very interesting example that you gave in the proposed rule of how many programs would have trouble meeting or were currently below 26% match level. I think you said 20.6% of the current AmeriCorps state and national portfolio came in at that level. What I'd like to request is more information. Right now, how many of your current portfolio of all the programs would actually come in at the 50% match, come in at the 45%, come in at the 30%? It would be really helpful to see that information.

D. Eisner: That's fair. We certainly looked at a lot of that information as we were developing the rule. I guess I'm comfortable discussing releasing it. I believe that the median is at about 40%. I think that the challenge is that we would have to provide that information with a whole bunch of caveats around the level of accuracy. Internally, we used a lot of data that we got from different sources that we felt comfortable using but that we didn't feel was, that we didn't sort of have a level of comfort around publishing. What we'll have to figure out is how to provide that information so that you understand the context we were using, while simultaneously providing sufficient disclaimers so that it's not, folks understand exactly where we're confident in it and where we're not.

A. Carpenter: That would be terrific. Thank you.

D. Eisner: Any other questions around sustainability?

Coordinator: Miss Mary Alice Croften, your line is now open.

M. Croften: This is Mary Alice in Maine. It's a definition that was I was looking for in trying to figure out the sustainability piece. Because there's a reference to replication, and it kind of builds off what was just asked. If you have a legal applicant who's proposing a new program or to replicate something that they haven't done before, does the escalator for sustainability apply to the applicant or their activity? That's not clear.

D. Eisner: It applies to the applicant. One way of looking at it is if there's an EIN number. If it's the same EIN number, it's considered the same applicant. If it's a new EIN number, it would be a different applicant. Is that helpful?

M. Croften: I'm not sure you answered what I was trying to ask, but I'll take it that way.

D. Eisner: I think I understand at least part of the question. If there was a new applicant that was using an existing model, we would consider that a new applicant.

M. Croften: No, actually, I asked the reverse of that. If you have an-

D. Eisner: An old applicant?

M. Croften: An experienced legal applicant who is proposing to replicate a program that they haven't done before, what does the escalator apply to, the program, or the applicant?

D. Eisner: It applies to the applicant. The way that the rule is currently constructed, an applicant, you know what, I'm going to ask our general, I believe that an applicant that's operating a, I believe it's against the applicant. That is the EIN number.

What we will do is, to the extent that there is any language that pertains specifically to program or that enables the same applicant to do a new program and start from the beginning, we will clarify that following this call.

Coordinator: Next question comes from Aleisha Hartsfeld. Your line is open.

A. Hartsfeld: I think this is part of the previous question. I could not find a definition of sustainability. I know for North Carolina it would be very helpful to be able to have that definition very clear and be able to format it for our programs. Is that written somewhere?

D. Eisner: We can do that. I guess the problem is that we operated with a couple different definitions of sustainability. In the broader sense, as we tried to make clear in the preamble, we agree that there are many non-financial elements to sustainability. A program, for example, that builds a playground and has the city pickup the maintenance cost has built substantial sustainability that doesn't influence the financial sustainability of the nonprofit itself.

And yet, at the same time, we also needed to focus on the specific elements of sustainability that got to leveraging federal dollars and increasing the cost of, the share of cost by program. We can try to be more concise about how we're defining sustainability.

The challenge is that we saw many different elements, and we addressed several of them.

A. Hartsfeld: Do you know when? This is Aleisha again.

D. Eisner: I'm sorry, say that again.

A. Hartsfeld: Could you give us a timeline on when you might be able to have that definition?

D. Eisner: Why don't we say next week.

Coordinator: Our next question comes from Patricia Bolin. Your line is open.

P. Bolin: This is Patricia in Oregon, three quick questions. Did I read in here somewhere the sustainability plan changes if a sponsoring organization has not received funds for two years? Do they go back to the year one?

D. Eisner: Five years.

P. Bolin: Five years, okay. My second question was could you speak a little bit about your expectations for the commission's sustainability approach? Then, my third question is, in an application, will it make a difference the number of partners that an agency has to provide the match, or will it just be a question of the level of match?

D. Eisner: As far as the sustainability approach for the state commissions, we deliberately left that as open ended as possible. Our expectation is that the commissions will seriously consider how sustainability issues bear on their grantees and on their state plan and what kinds of incentives, disincentives and patterns they would like to see in the state. And that they invest themselves in articulating the policy that they think is right.

We are not in any way making mandates or requirements about what that policy should look like because we found that the diversity of thought that came from the state commissions the first time was extremely valuable for us in looking at what we should do on a national basis.

We did want to create the expectation that the commissions that have not yet wrestled with the issue and identified what their own strategy is would do so.

As far as the issue of the breadth of contributors to the match, that is not a factor in the matching requirement. However, it's a significant factor in the competitive criteria. An organization, all other things being equal, an organization that has broader diversity in its revenues will get more credit in the competitive side than an organization that has all of its eggs in one basket.

Coordinator: Kristen McSwain, you may ask your question.

K. McSwain: This is Kristen. I have a question that actually piggybacks on Mary Alice. When you get the response about when match changes in, if a legal applicant who's run a program before runs something new, could you also make sure that it addresses the question as it pertains to people who serve as fiscal agents?

D. Eisner: Yes, we will. Let me ask Frank. Do you want to add anything to this now? Do you have clarity here?

F. Trinity: No. I think it'd be best if we heard the other questions that might relate to this, and then come up with one answer at a future time.

Coordinator: Aleisha Hartsfeld, your line is now open.

A. Hartsfeld: I saw that there will be additional training and technical assistance resources for programs who are struggling with the sustainability piece. I guess I'm interested to know if that's going to be plentiful. North Carolina, we've started a process where we've provided intensive one-on-one coaching with a provider. It's a process that takes a number of months. What we've had them to do was to come up with an action plan that we can use, but consistent with the sustainability plan that they put in their application. This tool will be used as a monitoring tool for the commission, as well as a self-assessment for the program and also training and technical assistance throughout the course of the year to identify what the training needs are, so that we can support them in being successful. We've started on something that's really huge, and we just

want to be sure that the dollars are there to support programs, so that they can be successful at sustainability.

D. Eisner: That's a really good question. I guess I'm having a little bit of a hard time because I think that the definition of "plentiful" is so subjective. I don't envision us sending a crack team of ten professional accountants and three professional fund-raisers to every program. Yet, I would say that we're anticipating making a significant investment in targeting programs that are on the bubble or on the cusp of a challenge and making sure they have the capacity to get past that challenge. We recognize that this is not an easy fix. We are not thinking that we're going to be able to send folks a how-to binder or do a quick in and out kind of activity.

Rosie.

R. Mauk: I just wanted to add to that that it would be great for those of you that have already started this kind of work within your programs or your commissions that you could give input via the e-mail or the faxes, etc., as we're starting to look at whatever implementations would look like with the final rules. That would be really helpful.

A. Hartsfeld: North Carolina will do that, but one other thing, just to be real certain that the dollars that you have are realistic for our programs, so that it's more than, it's a goal that they can reach. In previous years there have been situations where that's not been the case, and so programs have been set up to fail in the beginning.

Coordinator: Kathy Carter, you may ask your question.

K. Carter: David, thank you so much for organizing this. This is very helpful. We have a program, and I suspect many of my colleagues also have this scenario that the program, we didn't fund them for a couple of years because of lack of capacity to run an AmeriCorps program. We have subsequently, with an entire new change of management of that organization, we've now refunded them, and they've just started in their cycle. For those programs that don't have that break in service of five years, will there be some kind of a scale that you will develop that will show us where we would put them back on because we actually did go, maybe, three years that we didn't fund them.

D. Eisner: You know, we've heard a couple of questions along these lines. I'm not sure we've contemplated all the various permutations this question can take. If folks have ideas for the right way for us to dig a little bit deeper on this one, we'd be really interested. Clearly, it's something we're going to have to look at.

Coordinator: Lydia Crane, your line is now open.

L. Crane: I have a basic question about the, when year three applies. We're a long-standing program, and we'll be in the middle of a program year when this rule is published. Our question is, we will be coming in at year three, but does year three start retroactively to this program year, or is it the beginning of the next program year?

D. Eisner: It's actually, the problem, when you say program year, it actually is going to be pegged more the fiscal year that the grant is made.

L. Crane: It will be in the middle of a fiscal.

D. Eisner: It would be the next fiscal year, grants that are made the next year. I want to make sure. Frank, is that?

F. Trinity: I think that's right. One of the things we're asking for in the comments is to give us those kinds of fact patterns, so that when we issue the final rule, we'll have the benefit of those questions, and then we'll be able to give you our answer.

L. Crane: Let me additionally ask another question then. We are actually in the, we will be in the middle of a second fiscal year of a continuation grant. Are you saying then that the three-year would begin at the next fiscal year, or at the beginning of a new grant cycle?

D. Eisner: I think it's going to depend on a lot of things. It's going to depend on when we end up issuing final rules, for one, and where our programs are at the point that we issue final rules.

I think that Frank is right. If there is some sort of a point beyond which you can't have the rule come into play in that or the next year, it's very helpful for us to hear that. So that we can make sure that whenever the rule is released, we then target its implementation timetable in a way that works.

L. Crane: It would be helpful to us if we knew that, to plan ahead, if we knew that three year started with a, you simply said it starts in the next fiscal year or program year, or if it starts with the next full grant cycle.

D. Eisner: Now, one of the things, as far as the overall implementation, there are a lot of things that will actually matter, but note that actually year three is an unchanged year. It doesn't really matter because one of the reasons that we said that as far as the matching requirement goes, this starts in year three, is so that we don't run the risk of anybody having a short-term challenge because, again, year three is unchanged from the current requirements.

L. Crane: Yes, we understand that, and we appreciate that. We just are trying to think and plan ahead in terms of putting the match numbers together, so that if we know we need it in six months, or we know we need it in eighteen months, that's helpful to us.

D. Eisner: I think it's going to be hard for us to answer that question prior to knowing the date that we're able to release the rules. Upon releasing the rules, we will be sure to be excruciatingly clear on that point.

L. Crane: Even if you could tell us the earliest date that the rules could be published. That would be helpful too.

D. Eisner: We're going to consider that request. I'm not sure we're going to be able to do that, but we'll consider that.

Coordinator: Deborah Hartman, your line is now open.

D. Hartman: Hi David and Rosie, I really appreciate your willingness to allow us to participate in this. It's great. We joined a little bit late, so I apologize if this has already been asked. Piggy backing on what was just discussed, I just want to clarify. As we get

ready to prepare the RFP for the '05-'06 cycle of programs, the current rules still apply to that. Is that correct?

D. Eisner: That's correct.

Coordinator: There are no further comments or questions at this time.

D. Eisner: Terrific. We are going to move then to grant selection criteria. I'm going to read the questions that we got, and then ask folks to dial star one if they've got a question.

Here's the question. "Could you expand or explain the statement under 2522.400, 'We are proposing adjustments to our grant selection criteria to meet three objectives. One, to better align the selection criteria with elements that predict program success.' What would an example be here?"

All the criteria that you're going to see listed under the frame, "What does the corporation consider in assessing program design," these are all elements that we believe indicate program success. For example, a plan or system for continuous program self-assessment that includes well defined roles for participants, or our plans for training and supervising participants. Or, the extent to which the applicant has met community-based performance measures, or the extent to which the applicant enhances capacity of other organizations important to the community. All of those are elements that we think predict program success. The question also goes, "In the same section, the rule states, 'We have also added criteria across all three categories to better reflect our focus on outcomes and sustainability.' What will these look like? How specific will they be?"

Again, I want to make clear; these are contained in the rule. For example, under "Program design," we ask for member outputs and outcomes. We'll look to see if the program has an impact in the community and whether that impact is sustainable after the program has finished using its AmeriCorps funding on that.

Another question is, "Why is information from an applicant organization's Web site included as grant criteria? What kind of information, and how will it be evaluated?"

It's a good question. Program officers may want to get more information on an organization from the Web site. For instance, an annual report might be filed on the Web site that we can use in making final grant decisions. One of the challenges that we've had in the past is that we're trying to draw balance here. On the one hand, we basically don't want to go very far beyond the application, so that the application is what we use. On the other hand, in some cases, to be fair, we need to have a better sense of what's happening that may be beyond the application. We may need to verify something that's in the application. What we're doing in the rule is giving ourselves the ability to go beyond the application.

That is the questions that were written down. If folks can dial star one if they've got a question on grant selection criteria. Operator, if you can let us know how we're doing on that.

Coordinator: Certainly. Mr. Tom DeVine, your line is now open.

T. DeVine: It says under this section that your intent is to clarify the selection priorities in these regulations to provide transparency and baseline consistency. And yet, I don't see any language around enrollment rates, retention rates, and whatever other kind of rates you're going to use in this area, and I think that they need to be explicit in this area to what you're going to look at.

D. Eisner: I'm sorry, I'm having a hard time following. Are you saying that if we have a criteria around enrollment rates, we need to name that?

T. DeVine: Well, it just seems to me that if those are areas that you're going to look at as program performance indicators, that it would be nice to tell people that those are the things you're going to look at.

D. Eisner: That's helpful.

Coordinator: Alison Carpenter, your line is now open.

A. CarpenterK. Carter: I had another question around the role of cost per FTE in the grant selection process. I think this is the right time to ask that one.

D. Eisner: Yes.

A. Carpenter: I'd like to know what level of priority it's going to be given. You say all things being equal, the cost per FTE will be a factor. But given the incredibly wide diversity of programs and the complexity of each one, that seems like an extremely tall order to put on corporation staff to be able to make such kind of distinctions. And it all leads to a conclusion that really you can compare numbers very easily, and so that would be the determining factor, and the top one.

D. Eisner: I certainly understand that concern. We tried to be very explicit in the language that we're using in the rule. We would really appreciate further ideas along here. The role that our program officers do is a very tough one. Their job is comparing very difficult things to compare between programs. While we are doing everything we can to shift toward more measuring apples to apples, at the end of the day, sometimes it's a mentoring program in an urban area will get funded, and an environmental program in a rural area may not and vice versa. There's a myriad of ways that our program officers weigh these criteria.

What we're saying here, as clearly as we can, is that one of the factors that is going to be a consideration is how effectively programs are using federal dollars. We understand very, very well that we can't simply compare programs based on cost. We say that as explicitly as we can because we know that some programs have different goals. That different kinds of programs cost different amounts, and we also know that some programs are in different environments. We know that even between, for example, two youth serving programs, the program that's trying to bring in members from more disadvantaged communities that that program will end up costing more. We try to indicate all of that in the rule. We believe that our program officers are up to the task of implementing this rule in such a way that these cost effectiveness pieces are important criteria that they weigh but that don't overly dominate our understanding of the needs and goals of individual programs.

A. Carpenter:

D. Eisner: Again, my first comment there is this is at the heart of a key issue. We really are open to any ways to either say this better, or if there are things you'd like to suggest in terms of how we implement something like this that would make it better, we'd be interested in that as well.

A. Carpenter: Just one little corollary then, it might be useful to make a distinction for programs that only serve to implement the AmeriCorps mission, standalone entities, the way you've made a distinction for intermediaries.

Coordinator: Kyle Caldwell, your line is now open.

K. Caldwell: Just a clarifying question about the FTE rates. In that it would be published in the rule, if I read it correctly, does it then, therefore, mean that the 12-4 figure stands until another rulemaking process is implemented?

D. Eisner: We need to look at that language. We did not mean to imply that it would be published in a rule. It would be published annually in guidelines. I believe we say explicitly that we're going to do that after considering the impact and any changes in the member living allowance.

K. Caldwell: Just to be clear, just because it is published in the proposed rule as a consideration does not mean its flexibility and change in the future is somehow tied to any rulemaking process.

D. Eisner: That's correct.

Coordinator: Mary Alice Croften, your line is now open.

M. Croften: This is, I'm hoping, one of the forest for the trees sort of things in that talking to the field we all think we understand something, but it's about the cost per FTE. I looked on both pages 18 and 55 and what came out. It says that you calculate the cost per FTE by dividing into the budgeted grant costs. Grant costs would be the entire budget. In any other world I live in, a grant cost is your local match, or local contribution, and the federal share. Are you redefining the cost per FTE to be on the total grant budget?

D. Eisner: No. The corporation cost per FTE is the corporation's share of that total budget.

M. Croften: Then you might want to look at the language to be sure that it is clear to everybody that you're only looking at that one column.

Coordinator: Kristen McSwain, your line is now open.

K. McSwain: I was going to ask the same question as Mary Alice, but I do have a second question, which is, in the grant review process, you've said that people who can't make certain things will have the opportunity to have a waiver. I'm wondering how you can be competitive in the grant process assuming that FTE cost is a part of that when a

waiver would only be requested after you made it through the grant process. I'm wondering, is there's a system in place that isn't described in the rule?

D. Eisner: We did not contemplate that. Frank? First of all, let me say, we need to think about it, thank you. Let me also say that we believe that all programs can meet the match requirement. We're only saying that the waiver's in place for programs that have made a good faith effort to meet that targeted match. The waiver is not in place, at least the way it's currently drafted, for programs that start off saying we can't get there.

F. Trinity: Right. This is Frank. I also make a distinction between saying we'll take into consideration your program's individual circumstances around cost effectiveness versus a waiver of a particular requirement once you get a grant.

K. McSwain: Could you explain what you mean by that, Frank? I don't understand.

F. Trinity: Well, say you have a program that has a good reason for why it's having trouble showing that it will reach a certain match or a certain cost FTE. You can give us that information as part of your application, and we can consider that information as part of the application.

That's a separate issue from whether we would give you a waiver of a particular requirement if we give you a grant. It's the first thing that we'll look at is considering that, and then the second thing is if we consider it and decide to give you a grant, then we would consider whether you need a waiver of all or part of the actual requirement.

Coordinator: Tom DeVine, your line is now open.

T. DeVine: Could you go into the rolling grant approval process? It seems like we're going to complicate counting the number of members that people who apply early in the year may have an advantage over those that apply later. It has the potential of having impact on when grants get closed out. To me, it has some major impacts for us in the states, so could you share a little bit on that?

D. Eisner: Actually, we can't. This is in reference to the piece of the proposed rule that says that we're going to be looking at making the continuation requests on a rolling basis, but we have not issued our guidance on how that's going to work. The kinds of questions that you're asking is exactly what we're spending our time making sure we've completely nail down before we release the guidance on that.

Starting in another place, the questions that you're asking are exactly the questions we're asking ourselves. It's why we did not release a full guidance on this issue at the time that the proposed rules came out, and we're hoping to release that guidance fairly soon, answering those questions. To the extent that there are other questions, we'll definitely deal with it at that time, Tom.

Coordinator: There are no questions or comments. Oh, we have one more. Miss Alison Carpenter, your line is now open.

A. Carpenter: Sorry about that. I did have one other question, and it was related to the idea that states or national directs can balance match and cost per FTE's across

operating sites. I think what you're saying is that for state competitive grants, they're going to be judged on their cost per FTE on an individual basis, not as part of, say, a state competitive portfolio submission. Is that right?

D. Eisner: Yes, that's correct.

I think we already did a couple of questions on cost per FTE. In fact, the questions that were asked, as far as I can see, already hit the questions that we got by e-mail, so we don't have any e-mail questions left on cost per FTE. If anyone has any remaining questions on the cost per FTE issues, will they hit star one now.

Coordinator: Kristen McSwain, your line is now open.

K. McSwain: David, I'm sorry, I think I might be asking a question in the wrong place now, but I sent in an e-mail question about the childcare costs. Can I ask that now? Is it later?

D. Eisner: Sure, we'll be loose about this.

K. McSwain: If it's capped to the childcare and development block grant, and your state has a waiver; does it then follow that that waiver would apply to AmeriCorps?

D. Eisner: Yes, we got that question in e-mail. It's a good question, and we're going to look at it, and we'll figure out an answer to that.

K. McSwain: Okay. Perfect, thanks.

Coordinator: Alison Streator, your line is now open.

A. Streator: Our question is about PDAT funds for national directs. It seems we have that the rules are pretty clear about training and PDAT funds do not count towards cost per member for state commissions. Will training funds also not be counted in the calculation of cost per member for national direct programs?

D. Eisner: I'm slow in answering this because I know that there's different places that training funds come from. I believe the training funds that we expend to our OLDT that you rely on that are not PDAT, we would not be. To the extent that you use training moneys, that would not count as part of the calculation of cost per FTE. What I'm not clear on is if you use any part of your grant for training, then that would count as part of the cost per FTE. Was that clear enough, or do you need us to go back and come up with a clearer written response?

A. Streator: I think that we'd like a clearer written response because we offer training to our members, for instance, citizenship, the required trainings that we have.

D. Eisner: I'm sorry. I understand. Those are part of your program costs. Those are included.

A. Streator: What we're wondering is, why is there a distinction between, why aren't they counted for state commissions, but they are included in our cost per member?

D. Eisner: We're currently having a lot of different discussions here, so I think we're going to respond to that off-line. I'm not sure that that's right, but I want to make sure that we answer it correctly, so we'll follow that one up. Thank you for asking.

Coordinator: There are no further comments or questions at this time.

D. Eisner: Let's move on to member service activities. What we've got an e-mail, two questions. "Will there be more clarification and guideline issued on how possible displacement of volunteers will be monitored by the corporation?"

Yes, we will need to clarify that, provide more guidelines, and we'd be very interested in any suggestions along those lines.

The second question, "Does the displacement of volunteers include redistribution of volunteers to other tasks? For example, in some instances, volunteer Coordinator have previously been volunteers. Members assume their roles as volunteer Coordinator on a full-time basis allowing for greater numbers of volunteers to be recruited and trained. However, opportunities for the volunteer to participate still exist."

As we said earlier, we're going to issue more guidance and guidelines. In general, national service programs should expand volunteer opportunities rather than ending up with fewer volunteer opportunities if no one has been displaced when they still have an opportunity to serve. All that being said, your comments and suggestions on that are welcome. We're going to, again, provide pretty clear guidance on how to implement this piece of the rule.

At this point, if anyone has other questions on member service activities, please press star one.

Coordinator: There are none, sir.

D. Eisner: We're moving quickly now. Tutoring requirements, we did not get any e-mail questions on tutoring requirements, so if anyone has a question on the tutoring requirement, please press star one now.

Coordinator: Again, there are no comments or questions, sir.

D. Eisner: State commission flexibility to operate programs, we didn't get any e-mail questions on that, so if anyone has any questions on state commission flexibility, press star one now.

Coordinator: Keith Caldwell, your line is now open.

K. Caldwell: You knew I was going to ask first. Just a clarifying question, what does it mean for all non Title C programs to be eligible to be operated by state commissions.

D. Eisner: It means that for those programs state commissions may apply not just as fiscal agents, but may apply to actually operate the programs. The current status is that, for example, for Senior Corps or Learn and Serve, state commissions may apply, but they apply only as fiscal agents with another organization operating the program. That restriction is one that we imposed that goes beyond the statutory restriction, which

is only that state commissions may not operate Title C funded programs. We're moving that program so that, again, state commissions are eligible to apply to operate those programs.

K. Caldwell: Just another clarifying question then, with regard to statutory requirements around Learn and Serve dollars, and I plead ignorance at not knowing them in detail, does this then supersede the requirement that Learn and Serve school-based dollars be applied for by LEA's?

F. Trinity: This is Frank.

K. Caldwell: Excuse me,

F. Trinity: The legal applicant for school-based is the SEA, by statute. This regulation will not override that particular part of Learn and Serve.

Coordinator: Mary Alice Croften, your line is now open.

M. Croften My question has to do with the relationship between state policies that might be established by the commission or have been and the rule. It pops up in several different places, so I'm not going to use an example, but my question is whether or not these rules are a floor, a ceiling or the sole word on the various things that they address because it's silent about which those are. I know from experience that there will be a long conversation about whether or not states may or may not be more restrictive, or whatever.

D. Eisner: I want to be careful not to use the floor/ceiling metaphors because I think they can be looked at different ways. Our intent in doing the rule was that states should be able to be more restrictive should they choose, if the state decides that its policy is that its commission should not be running a certain kind of program than that. That is the rule. Hopefully, we got it right in the language. I am interested in if we did or didn't and if you have any suggestions on how to be clearer, that would be terrific.

Coordinator: There are no further questions or comments at this time. We have one. Kathy Carter, you may ask your question. Miss Carter, your line is now open.

K. Carter: David, I'm going to go back to the section on tutors because I got caught off guard because I had actually sent this question in, in writing, but I don't think I sent it in appropriately or something.

D. Eisner: Oh, I'm sorry, we missed it.

K. Carter: Because I had sent it in, in writing, I was kind of caught off guard and didn't get it in. But before we get on, on page 23, when you talk about the tutors, that very first full paragraph when you talk about the No Child Left Behind, the qualifications, that if a local education agency has to follow those, but does not apply to AmeriCorps members serving as tutors under the sponsorship of an organization other than a school district. Leads me to believe that if a school district has the AmeriCorps member, then the school district would have to meet that criteria. But, if it was another community-based organization that placed the tutor there, they would not have to meet the criteria of No Child Left Behind. Is that a correct assumption?

D. Eisner: Yes. Yes, that's a correct assumption.

Coordinator: There are no further questions or comments at this time.

D. Eisner: We're going to move to performance measures and evaluation. We got one question that came in. It says, "The rules state that an organization receiving over \$500,000 will have to complete an in-depth program evaluation that covers five years, every five years. Does this mean that organizations receiving over \$500,000 will need to continuously be doing an in-depth program evaluation? Is there any plan for helping develop funds for a quality evaluation to be completed? Will funds spent on this type of evaluation count in the calculation of cost per member?"

No, the funds spent on this type of evaluation will not because they will not be corporation funds. What we're really doing here is, there's an existing rule that all programs must do an independently funded evaluation every four years. What we're saying is that that's a real difficult burden. We continue to believe that independent evaluations are very helpful, and we encourage all programs to do it. What we are only requiring, programs that are receiving over \$500,000 a year to do it, and we're requiring it every five years.

As far as when the evaluation needs to go into effect, we, I believe, by year three, need to see that the program, at each cycle, at each five-year cycle, we need to see by year three that the evaluation is moving forward. And then, after year five, we need to see that the evaluation has been complete. The program has an awful lot of latitude to determine exactly how to implement its evaluation.

The second question that we got is, "For performance measures, the rule states, 'The corporation will establish a national performance measure on volunteer leveraging and may establish performance indicators on member satisfaction.' Do you perceive these containing set levels of performance required activities, etc., or just common language on what is being measured?"

On volunteer leveraging, we're looking at establishing a standard that helps all programs use the same basis for measuring how many volunteers they're leveraging, so that we can roll the numbers up on a regional, state and national basis. It's really a matter of standards setting.

As far as member satisfaction goes, we're looking at various ways of doing that. We're considering the possibility of asking members how satisfied they are, but this is something that does not get imposed in any way, in the rule, and that would only happen operationally upon our having a lot of conversations with the field about the right way to do it.

Those are the written questions. If anyone has any questions to ask about performance measures and evaluation, please press star one.

Coordinator: Aleisha Hartsfeld, your line is now open.

A. Hartsfeld: I'm sorry, I had a question in the previous section.

D. Eisner: That's okay.

A. Hartsfeld: The lady that spoke at the end of the previous section about the No Child Left Behind, she just wanted to clarify, and I wasn't really sure that I understood what she said in regards to the members who are placed at school, the schools being the placement site. Could you just tell me again?

D. Eisner: I think it's a little difficult because everyone else is on listen-only, so I'll take a shot, and I think I'm right here. The question is, are we saying that there's a difference between a member who's being hired by the school district to serve in the school, or a member being hired by a non-profit organization and being placed in the school. The answer is yes. We receive guidance from the White House that we are confirming of these rules, that the more strict paraprofessional requirements only apply in the case that an AmeriCorps member is serving as a tutor in the school, being hired by the school. But the more strict paraprofessional requirements do not apply in the case where a member is a tutor in the school, having been placed there by a nonprofit organization. Does that answer your question?

A. Hartsfeld: Yes, it does. Thank you.

Coordinator: There are no further comments or questions at this time, sir.

D. Eisner: We are on to our other category then. I have a few that fell into this category. First one, target community, "How is this different from what is currently in place, and what prompts the new definition?"

We included this specifically so that applicants have the opportunity to construct their own definition of community.

Another question that we got in this category was, "Why a second rules process? What will it include that is not covered in this process?"

We are going, the second rules process is going to move all of the application guidelines and grant provisions, which are things that you currently receive outside of the regulations that are in the draft rules, into regulation. We're going to consolidate all of the regulations in the Title 45, Chapter 25 of the CFR.

Our goal is that we're going to end up with one primary reference document, the regulation, that organizations will use in applying for and operating national and community service programs. So that even after the rules that we're dealing with now go into effect, if we didn't do anything further, you'd still be receiving guidelines every year. You'd still be receiving guidance every year, and you'd be signing grant provisions following the release of awards. We're going to take all of that and put that into federal regulation as a way of increasing transparency and building predictability and reliability. That's the answer to that.

Any other questions on anything, press star one.

Coordinator: George Whitehead, your line is now open.

G. Whitehead: I got on late, and I think you addressed this in the very beginning, but I needed some clarification about the grant cycle process and when the match, 50% match, kicks in. We've had a grant a number of years, but we're now in a new granting

cycle. What I'm trying to understand with this three years is, if we're going into, say, year ten, do we kick in immediately because we're in year ten? Or do we kick in at some point in time later on because we're now in the third year of the present grant cycle? Does that make sense?

D. Eisner: Yes. The year of your present grant cycle is irrelevant to this.

G. Whitehead: So we don't go back to the beginning of when we started.

D. Eisner: That's correct. Although, I want to make sure that you noted that the way we're doing this is that anyone that's in year four or beyond, starts in year three of the schedule.

G. Whitehead: Okay. That's not the 50% match initially, then.

D. Eisner: No. Year three is the minimum match. Then, year four is when it starts. If you're in year eight, once this becomes, once this is applied, you would then start in year three. Then, the following year would be the first year that you'd most likely have to address, report an increased match.

Coordinator: Kristen McSwain, your line is now open.

K. McSwain: David, I actually had three follow-up questions to the next rulemaking process question.

D. Eisner: Sure.

K. McSwain: Number one is, in this set of proposed rules, you talk about the question of refilling positions being taken up outside of rulemaking. If you do that, would that leader become part of the second rulemaking venture, as it were?

D. Eisner: That's a good question. We're not contemplating that right now. We believe that we can manage this outside of the rules, but it may be that if we get it, one of the challenges is that figuring out this refill is likely to require some adjusting as we move forward. We want to make sure we got it absolutely right before we'd even consider moving it into regs.

K. McSwain: My second question is the same thing but now around the issue of limiting the number of competitive applications that a state can put forward.

D. Eisner: I want to make sure that you don't think that we've said anything that limits the number of competitive applications the state can put forward.

K. McSwain: No, I absolutely understand that, but it does say in here you may raise the question in the future.

D. Eisner: I think what we have done is requiring states to rank order their competitive applications to us. We believe, at least for now, that this addresses the core issues. We'll have to see how that plays to determine whether we need to do anything further like limiting the competitive application.

K. McSwain: Great. Then, my last question, just because I need to know that I understand the process. Anything that goes through this rulemaking process, once it's in the rules, you'd have to have another rulemaking process to change it.

D. Eisner: Either that, or it would have to be overruled legislatively.

Coordinator: Alison Streater, your line is now open.

A. Streater: I have two questions. One, I think, is kind of simple; I'll ask it first. How does the corporation plan to monitor this placement of volunteers? Do you have anything to say about that at this early point?

D. Eisner: I think that goes under the general point that we've got a lot of work to do to provide greater clarity on how we would implement the rule.

A. Streater: My second question's a little bit more involved, but I think that other national directs may have this question as well. When you talk about, I think in the rules it's under 50-124, it's on that page and under the section of sustainability. "By the tenth year in which an organization receives an AmeriCorps grant for the same program," we had a question about that and how it's worded. Because for many national directs, they may have the same EIN number that's applying for money from the national direct side of things and also directly to state grants, but it's two different programs. How will that organization with the same EIN number fit into this new match framework?

D. Eisner: Yes, I think that this is the one that's caused us, I'm not sure. I'm not sure if there's inconsistency, or if we need to slice it for you more carefully. We're going to get this whole question around the distinction between the program and the grantee identity in writing, and we'll get it out to the field in response to this set of questions.

A. Streater Yes. It is confusing when an organization can be a subgrantee for one grant and the parent organization for another grant, like where do they fit in there.

Coordinator: Kyle Caldwell, your line is now open.

K. Caldwell: David and Frank and Rosie, this process is clearly identified in the report language from Congress, the EO from the President and the other factors that you listed in the preamble letter about rulemaking. How will the results be communicated back to those constituencies, and how will we, as the field, know whether or not the rulemaking process satisfies their interests?

D. Eisner: Well, we have, obviously, the President and the White House is our partner in doing this, and we issue this together with OMB. The Congress, we have already briefed both houses of Congress, and we continue to have ongoing discussions with them. I'm not really in a position to speak for Congress and don't envision being in a position to speak for Congress, but I'm sure that they'll be well able to speak for themselves. Frank.

F. Trinity: One technical point, when we issue the final rule, that actually gets transmitted to the Congress, to the speaker and to president of the Senate and officially they receive it.

D. Eisner: As far as our board of directors, our board of directors voted on the essence of this rule and directed the corporation to work with OMB to promulgate this draft.

I should note that we will, at the end of the 60 day time period, we're required then to submit our proposed final rule to OMB with a full schedule of all of the comments that we received and all of our responses to them. Our board will oversee that transfer.

Coordinator: Patricia Bolin, your line is now open.

P. Bolin: David, I'm sorry. I'm asking for a clarification on an answer that you gave regarding evaluation.

D. Eisner: Sure.

P. Bolin: I think the question asked was, would the cost of the evaluation be considered as part of cost per member?

D. Eisner: The answer is no because the cost of the evaluation will not be borne by the corporation.

P. Bolin: No corporation funds can go towards evaluation.

D. Eisner: Well, I guess there may be something in the program. You know what, I think I probably need to be more subtle in that. By and large, the cost of the independent evaluation will be borne independently. There may be cases where, in the negotiation or in the program costs, the program is applied to include some evaluation or performance measurement costs in the grant costs.

Let me be a little clearer. To the extent that in the program grant, the corporation is bearing any cost of the evaluation, that would be included in the cost per member. To the extent that the evaluation is independently funded that the portion of the evaluation the corporation is not paying for, that would not be included in cost per member.

P. Bolin: Will there be guidance or standards or criteria eventually around what an evaluation should look like?

D. Eisner: That's a good question. On the one hand, we want to be as open to the grantees as possible. On the other hand, there may be a benefit to that clarity. Thanks for asking that. We'll look at it.

Coordinator: Alison Carpenter, your line is now open.

A. Carpenter: I had one other comment on the evaluation. It might be helpful to have a little more clarity around, again, the role of a legal applicant, or someone with the same EIN number providing an evaluation that is applicable to an operating site regardless of its geographic location. Or are you requiring a five year evaluation per grant or subgrantee? I'm not sure that I've said that clearly enough, but

D. Eisner: No, I understand the question. It's a good one. Thank you. I don't think we've contemplated that in the current rules.

Coordinator: There are no further comments or questions at this time, sir.

D. Eisner: Well, let me conclude then by thanking everyone for participating in this. I hope this is helpful. We certainly, in addition to hearing comments on the rules, what we can get are eager for any comments on the process and what we can be doing to be more transparent and to support the field in the work that's entailed in understanding the rule and providing feedback.

Let me finally note that I hope everyone that's looking at this and thinking of feedback also is cognizant of the rules around lobbying. And that folks understand that they can appropriately talk to us, the corporation, respond to us and provide us guidance, and that they may not, with corporation funds, be reaching out and speaking to either, on the grassroots level or the policy makers. To the extent that that's happening, it's got to happen not using corporation funds. To the extent anyone's unclear about that, there's all sorts of clarifying stuff on our Web site at www.americorps.org in the general counsel section.

I want to thank Rosie and thank Frank and thank everyone else that helped us get to this point. Particularly, again, thank our folks in the field that are really putting such time and energy into figuring this out and responding back to us.